

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

MORRIS MAY,
Plaintiff-Appellant,

v.

UNITED STATES,
Defendant-Appellee.

2012-5109

Appeal from the United States Court of Federal
Claims in case no. 11-CV-774, Judge Susan G. Braden.

ON MOTION

PER CURIAM.

O R D E R

The court construes Morris May's "motion for reconsideration, an interim award of pro se attorney fees, costs and litigation expenses, to strike, and for relief to circuit Judge Timothy D. Dyk" as a request for fees under Federal Circuit Rule 47.7.

Pro se litigants like May are not eligible to recover attorney fees. *Naekel v. Dep't of Transp., F.A.A.*, 845 F.2d

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976, 981 (Fed. Cir. 1988) (“We conclude that neither EAJA [Equal Access to Justice Act] nor the Back Pay Act authorizes payment to Mr. Naekel for the time spent acting pro se in his appeal to this court.”); *see also Hexamer v. Foreness*, 997 F.2d 93, 94 (5th Cir. 1993) (denying attorney fees under EAJA to pro se litigant); *Demarest v. Manspeaker*, 948 F.2d 655, 655-56 (10th Cir. 1991) (same); *Sommer v. Sullivan*, 898 F.2d 895, 895-96 (2d Cir. 1990) (per curiam), *cert. denied*, 498 U.S. 980 (1990) (same); *Merrell v. Block*, 809 F.2d 639, 642 (9th Cir. 1987) (same). We also note that any request for fees or expenses is premature. Fed. Cir. R. 47.7 (a)(2).

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk